

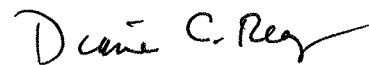
Analysis

This ordinance amends Title 10 – Animals of the Los Angeles County Code, Chapter 37, relating to Potentially Dangerous and Vicious Dogs.

The primary purpose of the ordinance is to expand the definition of "potentially dangerous dog" to include a dog involved in an attempted attack or an attack on a domestic animal or livestock, because such behavior is often a precursor to subsequent attacks on pets, livestock and people. The ordinance also increases the time to appeal a court order and to give notice of intention to seek judicial review of an administrative hearing decision, and includes other changes relevant to the regulation of dangerous dogs.

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By



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DCR:vn

Requested: 05/23/13
Revised: 07/09/13

ORDINANCE NO. _____

An ordinance amending Title 10 - Animals of the Los Angeles County Code, relating to Potentially Dangerous and Vicious Dogs.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 10.08.170 is hereby amended to read as follows:

10.08.170 Livestock.

"Livestock" includes but is not limited to the following: any pig, pygmy pig, hog, cow, bull steer, horse, mule, jack, jenny, hinny, sheep, goat, llama, alpaca, domestic fowl (including poultry) or rabbit.

SECTION 2. Section 10.12.090 is hereby amended to read as follows:

10.12.090 Capture and custody of animals required when.

The director is authorized to~~shall~~ capture and take into custody:

- A. All unlicensed dogs;
- B. Any other animal, wild or domestic, which is by this Division 1 required to be licensed, but which is unlicensed;
- C. Any animal being kept or maintained contrary to the provisions of this Division 1, the Animal Control Ordinance, or any other ordinance or state statute;
- D. Dogs and other animals running at large contrary to the provisions of the Food and Agricultural Code or any other state statute or of this Division 1;
- E. Sick, injured, stray, unwanted or abandoned animals;
- F. Dogs which are unvaccinated in violation of this Division 1;
- G. Animals delivered by the owners to the director, all title and interest in which is abandoned by such owners;

H. Animals for which the owner or custodian is unable to care because of imprisonment, illness, bankruptcy, litigation or other contingency, or in cases in which the owner or custodian cannot be found.

SECTION 3. Section 10.37.020 is hereby amended to read as follows:

10.37.020 Potentially dangerous dog -- Definition.

Potentially dangerous dog means any of the following:

A. Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury to any person, domestic animal or livestock, ~~when the person and the dog are off the property of the owner or custodian of the dog;~~

B. Any dog which, when unprovoked, bites a person or otherwise engages in aggressive behavior, causing a less severe injury than as defined in Section 10.37.040;

C. Any dog which, when unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal or livestock off the property of the owner or custodian of the dog.

SECTION 4. Section 10.37.030 is hereby amended to read as follows:

10.37.030 Vicious dog— Definition.

"Vicious dog" means any of the following:

A. Any dog that engages in or has been found to have been trained to engage in exhibitions of fighting;

B. Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a person;

C. Any dog previously determined to be and currently listed as a potentially dangerous dog in Los Angeles County, or to be a dangerous or vicious dog in another jurisdiction, which, after its owner or custodian has been notified of this determination, continues the behavior described in Section 10.37.020 or is maintained in violation of Section 10.37.130, an administrative decision, a court order or ~~other~~ restrictions placed upon it by another jurisdiction.

SECTION 5. Section 10.37.100 is hereby amended to read as follows:

10.37.100 Authority to seize and impound animal posing an immediate threat to public safety.

A. If upon investigation it is determined by the animal control officer or law enforcement officer that probable cause exists ~~to believe~~that the dog in question poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the dog pending the hearing to be held pursuant to this chapter. The owner or custodian of the dog shall be liable for the costs and expenses of keeping the dog impounded if the dog is later adjudicated potentially dangerous or vicious. Such costs and expenses shall be paid prior to the release of the dog.

B. When a dog has been impounded pursuant to subsection A and it is not contrary to public safety, the director of the department of animal care and control shall permit the animal to be confined at the owner's expense in a department-approved animal or veterinary facility.

SECTION 6. Section 10.37.110 is hereby amended to read as follows:

10.37.110 Potentially dangerous or vicious dog hearing.

A. Hearing. If an animal control officer or a law enforcement officer has investigated and determined that there ~~is~~exists probable cause ~~to believe~~ that a dog is potentially dangerous or vicious, the director of the department of animal care and control shall petition the Superior Court, within the judicial district wherein the dog is owned or kept, for a hearing, or shall serve a petition for ~~conduct an~~ administrative hearing, to determine ~~for the purpose of determining~~ whether or not the dog in question should be declared potentially dangerous or vicious.

B. Notice of Hearing and Petition. Whenever possible, a complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The director of the department of animal care and control shall notify the owner or custodian of the dog that a hearing will be held by the Superior Court or that an administrative hearing will be held, at which time he or she may present evidence as to why the dog should not be declared potentially dangerous or vicious. The owner or custodian of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first class mail. The hearing shall be held promptly within no less than five (5) working days nor more than ten (10) working days after the service of the notice upon the owner or custodian of the dog. For purposes of this chapter, service is complete upon deposit of the document(s) in the mail or when documents are personally served.

C. Conduct of Hearing. The hearing shall be conducted as an administrative hearing, or a limited civil case pursuant to Code of Civil Procedure Section 85, et seq., open to the public. The judicial officer or administrative hearing officer may admit into

evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. A jury shall not be available. The judicial officer or administrative hearing officer may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious and shall make other orders or findings required or authorized by this chapter. The judicial officer or administrative hearing officer may decide all issues for or against the owner or custodian of the dog even if the owner or custodian fails to appear at the hearing.

D. Administrative Hearing Officer. If the dog owner or custodian is notified that an administrative hearing will be held, the hearing shall be conducted by a neutral hearing officer. The department may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who signed the petition or directed the seizure or impoundment of the dog, and is not junior in rank to that person(s). In the alternative, the department may utilize the services of a hearing officer from outside the department.

SECTION 7. Section 10.37.120 is hereby amended to read as follows:

10.37.120 Notice of determination and appeal from court hearing.

A. Following a court hearing conducted pursuant to Section 10.37.110, the owner or custodian of the dog shall be notified in writing of the determination and order issued, either personally or by first class mail, postage prepaid by the court. If the petitioner or the owner or custodian of the dog contests the determination, he or she may, within fourteen (14) five (5) calendar days after the mailing of the receipt of the notice of determination, appeal the decision, which appeal shall be made to the

Superior Court before a judge other than the judge who originally heard the petition.

The fee for filing an appeal shall be the fee provided for by Section 31622(a) of the Food and Agricultural Code and shall be payable to the county clerk. The petitioner or the owner or custodian of the dog shall serve notice of the appeal upon the other party personally or by first class mail, postage prepaid.

B. The court hearing the appeal shall conduct a hearing de novo, without a jury, and make its own determination as to potential danger and viciousness, and make ~~any other~~ orders authorized by this chapter, based upon the evidence presented. The hearing shall be conducted in the same manner and within the time periods set forth in Section 10.37.110. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The issue shall be decided upon the preponderance of the evidence.

C. The court hearing the appeal may decide all issues for or against the owner or custodian of the dog even if the owner or custodian fails to appear at the hearing.

D. The determination of the court hearing the appeal shall be final and conclusive upon all parties.

SECTION 8. Section 10.37.121 is hereby amended to read as follows:

10.37.121 Notice of decision and judicial review of administrative decision.

Following an administrative hearing conducted pursuant to Section 10.37.110, a written notice of the decision shall be served on the department and the owner or custodian of the dog ~~shall be notified in writing of the decision of the hearing officer,~~

either personally or by first class mail. If the department or the owner or custodian of the dog desires to contest the decision, the department or the owner/custodian ~~must~~ shall notify the other party, in writing, within ~~fourteen (14)~~five(5) calendar days after the decision is served, of the intention to seek judicial review of the decision. The party seeking judicial review by the Superior Court ~~must~~ shall comply with all requirements of Code of Civil Procedure Section 1094.5 et seq.

SECTION 9. Section 10.37.130 is hereby amended to read as follows:

~~10.37.130 Conditions of ownership of potentially dangerous dogs.~~

Consequences of potentially dangerous dog determination.

The following conditions apply to a dog determined to be potentially dangerous:

A. The dog shall be properly licensed, microchipped, and vaccinated at the owner's or custodian's expense, prior to release to the dog's owner or custodian. If the dog was not impounded, the dog owner or custodian shall provide proof that the dog is licensed, microchipped and vaccinated within fourteen (14) calendar days after the decision or court order declaring the dog to be potentially dangerous is served on the dog owner or custodian. The department may include the designation in the registration records of the dog, after the court has determined that the designation applies to the dog.

B. The dog, while on the owner's or custodian's property, shall, at all times, be kept indoors, or in a securely fenced yard or enclosure from which the dog cannot escape, and into which children cannot trespass. The yard or enclosure ~~must~~ shall be inspected and approved in writing by the department prior to release of the dog to its owner or custodian. If the dog was not impounded, the yard shall be inspected

and approved in writing by the department within fourteen (14) calendar days after the decision or court order declaring the dog to be potentially dangerous is served on the dog owner or custodian.

C. The dog may be off the owner's or custodian's premises only if it is muzzled and restrained by a substantial leash, not exceeding six (6) feet in length, and if it is under the control of an adult capable of restraining and controlling the dog. At no time may the dog be left unattended while off the owner's or custodian's premises.

D. The owner or custodian of the dog shall notify the department immediately ~~if in the event~~ the dog is at large, or has committed an attack on any person, domestic or animal, or livestock. ~~If the dog no longer resides with the owner or custodian of record, or has been sold or otherwise disposed of, or has died, the dog is transferred to another person(s), the owner or custodian shall advise the department of the dog's new location, in writing under penalty or perjury, and provide a copy of the administrative decision or court order declaring the dog to be potentially dangerous, to the new owner and custodian. Each subsequent owner or custodian shall provide each new owner and custodian with a copy of the administrative decision or court order during the effective period of the decision or court order. Likewise, if the dog is moved to another jurisdiction, the owner or custodian is required to provide the animal control authorities in the new jurisdiction with a copy of the administrative decision or court order during the effective period of the decision or court order.~~

E. The dog ~~must~~ shall complete an obedience course for a minimum of ten (10) hours of training with the owner or custodian at his or her ~~the owner's~~ expense within sixty (60) calendar days after release of the dog to its owner or custodian. The

course shall be a course approved by the department prior to the release of the dog to the owner or custodian; If the dog was not impounded, the dog owner or custodian shall obtain approval by the department within fourteen (14) calendar days after the decision or court order declaring the dog to be potentially dangerous is served on the dog owner or custodian.

F. The dog ~~must~~ shall be spayed or neutered at the expense of the owner or custodian prior to the release of the dog to its owner or custodian. If the dog was not impounded, the dog owner or custodian shall provide proof that the dog has been spayed or neutered within thirty (30) calendar days after the decision or court order declaring the dog to be potentially dangerous is served on the dog owner or custodian.

G. The dog may be required to wear a bright ~~reflective~~ fluorescent yellow collar visible at 50 feet in normal daylight, which will be provided by the department at the owner's or custodian's expense.

H. The owner or custodian of the dog may be required to maintain general liability insurance covering property damage and bodily injury caused by a potentially dangerous or vicious dog, with a combined single limit of \$300,000.00 per occurrence; If required to maintain such insurance, the owner or custodian is ~~and may be~~ required to show proof of ~~such~~ insurance within fourteen (14) calendar days after the decision or court order declaring the dog to be potentially dangerous is served on the dog owner or custodian ~~court has made its determination.~~

I. All charges for services performed by the department pursuant to this Section 10.37.130 and all fines shall be paid prior to the release of the dog to its owner or custodian or within fourteen (14) calendar days after the services are performed or

the charges and fines are ordered to be paid~~custodian~~. If the charges and fines are not paid within fourteen (14) calendar days after ~~the date~~ the services are performed or the fines are ordered to be paid, the dog shall be deemed to be abandoned and may be disposed of by the department.

J. If the determination that a dog is potentially dangerous under Section 10.37.020, is made pursuant to a court hearing, the judicial officer shall impose a fine on the owner or custodian not to exceed \$500.00 for each separate basis upon which the determination was made. The fine shall be paid to the department for the purpose of defraying the costs of the implementation of this chapter.

K. A judicial officer or administrative hearing officer may impose such other reasonable conditions as are deemed necessary to protect the public safety and welfare.

SECTION 10. Section 10.37.140 is hereby amended to read as follows:

10.37.140 Consequences of vicious dog determination.

A. A dog determined to be a vicious dog may be destroyed by the department when it is found, after proceedings conducted under Section 10.37.110, that the release of the dog would create a significant threat to the public health, safety and welfare.

B. If it is determined that a dog found to be vicious shall not be destroyed, the judicial officer or administrative hearing officer shall impose the conditions ~~upon~~ ownership on an owner and custodian of potentially dangerous dogs required by Section 10.37.130, the conditions required by this section, and any other conditions necessary to protect the public health, safety, and welfare.

C. The enclosure that is required pursuant to subsection B of Section 10.37.130 shall be an enclosure which is enclosed on all sides, and which is locked by a padlock. It may be required to have a top and a cement floor. The enclosure ~~shall~~ must be approved in writing by the department, prior to the release of the dog to the owner or custodian. If the dog was not impounded, the dog owner or custodian shall obtain approval by the department within fourteen (14) calendar days after the decision or court order declaring the dog to be vicious is served on the dog owner or custodian.

D. The owner or custodian of a vicious dog ~~shall~~ must give written notice of the vicious dog determination to United States Post Office (local branch) and all utility companies which provide services to the premises where the dog is kept. The owner or custodian shall provide a copy of the notices to the department prior to the release of the dog from impound. If the dog was not impounded, the dog owner or custodian shall provide a copy of the notices to the department within fourteen (14) calendar~~within thirty~~ (30) days after the administrative hearing or court determination declaring that the dog is vicious.

E. The owner or custodian of the dog shall post one or more signs on the premises at a location(s) approved by the department stating that a dog which has been determined to be vicious resides on the premises. The signs shall be posted within fourteen (14) calendar days after the decision or court order declaring the dog to be vicious is served on the owner or custodian.

F. If the determination that a dog is vicious under Section 10.37.030, is made pursuant to a court hearing, the judicial officer shall impose a fine on the owner and/or custodian not to exceed \$1,000.00 for each separate basis upon which the

determination was made. The fine shall be paid to the department for the purpose of defraying the cost of the implementation of this chapter.

G. The owner or custodian of a dog determined to be a vicious dog may be prohibited from owning, keeping, possessing, controlling, or having custody of any dog for a period of up to three years, if it is found at the hearing conducted pursuant to the petition to declare the dog vicious, that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare.

SECTION 11. Section 10.37.150 is hereby amended to read as follows:

10.37.150 Compliance with conditions and consequences of violation of conditions.

A. The hearing officer or judicial officer who heard the petition to determine if a dog is potentially dangerous or vicious may schedule follow-up hearing dates to ensure compliance with all conditions imposed.

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SECTION 12. Section 10.37.170 is hereby amended to read as follows:

10.37.170 Exceptions.

A. No dog may be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or custodian of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime. No dog may be declared potentially dangerous or vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog may be

declared potentially dangerous or vicious if an injury or damage was sustained by a domestic animal or livestock which at the time of the injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog.

B. No dog may be declared potentially dangerous or vicious if the injury or damage to a domestic animal or livestock was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or custodian, and the damage or injury was to a species or type of domestic animal or livestock appropriate to the work of the dog.

SECTION 14. Section 10.37.180 is hereby amended to read as follows:

10.37.180 Infraction/misdemeanor penalty for dog bites.

In addition to the conditions and restrictions imposed on the ownership of potentially dangerous and vicious dogs set forth in this chapter, an owner or custodian of a dog who permits, allows or causes a dog to run, stray or be uncontrolled or at large upon a public street, sidewalk, park or other public property, or in or upon the private property of another person, is guilty of a public offense punishable as an infraction or misdemeanor if such dog bites, attacks or causes injury to any person or to a domestic animal or livestock.

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